

111TH CONGRESS
1ST SESSION

H. R. 2292

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to require coverage of preventive care for children.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2009

Mr. THOMPSON of California (for himself and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and Labor and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to require coverage of preventive care for children.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “Healthy Kids for Healthy
5 Futures Act of 2009”.

1 **SEC. 2. COVERAGE OF PREVENTIVE CARE FOR CHILDREN.**

2 (a) AMENDMENTS OF ERISA.—

3 (1) IN GENERAL.—Subpart B of part 7 of title
4 I of the Employee Retirement Income Security Act
5 of 1974 (29 U.S.C. 1185 et seq.) is amended by
6 adding at the end the following:

7 **“SEC. 714. COVERAGE OF PREVENTIVE CARE FOR CHIL-**
8 **DREN.**

9 “(a) IN GENERAL.—A group health plan, and a
10 health insurance issuer providing health insurance cov-
11 erage in connection with a group health plan, shall provide
12 coverage for appropriate preventive care for each qualified
13 dependent child of the participant.

14 “(b) APPROPRIATE PREVENTIVE CARE.—For pur-
15 poses of this section, the term ‘appropriate preventive
16 care’ means medical care which, under regulations pre-
17 scribed by the Secretary of Health and Human Services,
18 in consultation with the Secretary and the Secretary of
19 the Treasury, meets the most recent Bright Futures
20 Guidelines for Health Supervision of Infants, Children,
21 and Adolescents.

22 “(c) QUALIFIED DEPENDENT CHILD.—For purposes
23 of this section, the term ‘qualified dependent child’ means
24 a child of the participant who—

25 “(1) is not more than 18 years of age, and

1 “(2) is a dependent child, under the terms of
2 the plan or coverage, of the participant.

3 “(d) COST-SHARING PROHIBITED.—A group health
4 plan and health insurance coverage provided in connection
5 with a group health plan may not impose deductibles, co-
6 payments, coinsurance, or other cost-sharing in relation
7 to services provided pursuant to the requirements of sub-
8 section (a).

9 “(e) CERTAIN COVERAGE RESTRICTIONS PROHIB-
10 ITED.—A group health plan, and a health insurance issuer
11 providing coverage in connection with a group health plan,
12 may not—

13 “(1) deny to a participant or beneficiary eligi-
14 bility, or continued eligibility, to enroll or to renew
15 coverage under the terms of the plan solely for the
16 purpose of avoiding the requirements of this section,
17 or

18 “(2) penalize, or otherwise reduce or limit the
19 reimbursement of, an attending provider, or provide
20 incentives (monetary or otherwise) to an attending
21 provider, so as to induce the provider to provide care
22 to a beneficiary in a manner inconsistent with this
23 section.

24 “(f) ALLOWANCE FOR LEVEL OR TYPE OF PROVIDER
25 REIMBURSEMENT.—Nothing in this section shall be con-

1 strued to prevent a group health plan or a health insur-
2 ance issuer providing health insurance coverage in connec-
3 tion with a group health plan from negotiating the level
4 and type of reimbursement with a provider for care pro-
5 vided in accordance with this section.

6 “(g) NOTICE.—A group health plan, and a health in-
7 surance issuer providing health insurance coverage in con-
8 nection with a group health plan, shall provide notice to
9 each participant and beneficiary under such plan regard-
10 ing the coverage required by this section in accordance
11 with regulations which shall be promulgated by the Sec-
12 retary, in consultation with the Secretary of Health and
13 Human Services and the Secretary of the Treasury. Such
14 notice shall be in writing and prominently positioned in
15 any literature or correspondence made available or distrib-
16 uted to participants and beneficiaries by the plan or issuer
17 on an annual or other more frequent periodic basis.

18 “(h) RELATION TO STATE LAWS.—Nothing in this
19 section shall be construed to preempt or otherwise limit
20 any State law with respect to health insurance coverage
21 that requires more extensive coverage than is otherwise
22 required under this section.”.

23 (2) CONFORMING AMENDMENT.—The table of
24 contents in section 1 of such Act is amended by in-

1 serting after the item relating to section 713 the fol-
2 lowing new item:

“Sec. 714. Coverage of preventive care for children.”.

3 (b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE
4 ACT.—

5 (1) GROUP MARKETS.—Subpart 2 of part A of
6 title XXVII of the Public Health Service Act (42
7 U.S.C. 300gg–4 et seq.) is amended by adding at
8 the end the following new section:

9 **“SEC. 2707. COVERAGE OF PREVENTIVE CARE FOR CHIL-**
10 **DREN.**

11 “(a) IN GENERAL.—A group health plan, and a
12 health insurance issuer providing health insurance cov-
13 erage in connection with a group health plan, shall provide
14 coverage for appropriate preventive care for each qualified
15 dependent child of the participant.

16 “(b) APPROPRIATE PREVENTIVE CARE.—For pur-
17 poses of this section, the term ‘appropriate preventive
18 care’ means medical care which, under regulations pre-
19 scribed by the Secretary, in consultation with the Sec-
20 retary of Labor and the Secretary of the Treasury, meets
21 the most recent Bright Futures Guidelines for Health Su-
22 pervision of Infants, Children, and Adolescents.

23 “(c) QUALIFIED DEPENDENT CHILD.—For purposes
24 of this section, the term ‘qualified dependent child’ means
25 a child of the participant who—

1 “(1) is not more than 18 years of age, and

2 “(2) is a dependent child, under the terms of
3 the plan or coverage, of the participant.

4 “(d) COST-SHARING PROHIBITED.—A group health
5 plan and health insurance coverage provided in connection
6 with a group health plan may not impose deductibles, co-
7 payments, coinsurance, or other cost-sharing in relation
8 to services provided pursuant to the requirements of sub-
9 section (a).

10 “(e) CERTAIN COVERAGE RESTRICTIONS PROHIB-
11 ITED.—A group health plan, and a health insurance issuer
12 providing coverage in connection with a group health plan,
13 may not—

14 “(1) deny to a participant or beneficiary eligi-
15 bility, or continued eligibility, to enroll or to renew
16 coverage under the terms of the plan solely for the
17 purpose of avoiding the requirements of this section,
18 or

19 “(2) penalize, or otherwise reduce or limit the
20 reimbursement of, an attending provider, or provide
21 incentives (monetary or otherwise) to an attending
22 provider, so as to induce the provider to provide care
23 to a beneficiary in a manner inconsistent with this
24 section.

1 “(f) ALLOWANCE FOR LEVEL OR TYPE OF PROVIDER
2 REIMBURSEMENT.—Nothing in this section shall be con-
3 strued to prevent a group health plan or a health insur-
4 ance issuer providing health insurance coverage in connec-
5 tion with a group health plan from negotiating the level
6 and type of reimbursement with a provider for care pro-
7 vided in accordance with this section.

8 “(g) NOTICE.—A group health plan, and a health in-
9 surance issuer providing health insurance coverage in con-
10 nection with a group health plan, shall provide notice to
11 each participant and beneficiary under such plan regard-
12 ing the coverage required by this section in accordance
13 with regulations which shall be promulgated by the Sec-
14 retary of Labor, in consultation with the Secretary and
15 the Secretary of the Treasury. Such notice shall be in writ-
16 ing and prominently positioned in any literature or cor-
17 respondence made available or distributed to participants
18 and beneficiaries by the plan or issuer on an annual or
19 other more frequent periodic basis.

20 “(h) RELATION TO STATE LAWS.—Nothing in this
21 section shall be construed to preempt or otherwise limit
22 any State law with respect to health insurance coverage
23 that requires more extensive coverage than is otherwise
24 required under this section.”.

1 “(b) APPROPRIATE PREVENTIVE CARE.—For pur-
2 poses of this section, the term ‘appropriate preventive
3 care’ means medical care which, under regulations pre-
4 scribed by the Secretary of Health and Human Services
5 in consultation with the Secretary and the Secretary of
6 Labor, meets the most recent Bright Futures Guidelines
7 for Health Supervision of Infants, Children, and Adoles-
8 cents.

9 “(c) QUALIFIED DEPENDENT CHILD.—For purposes
10 of this section, the term ‘qualified dependent child’ means
11 a child of the participant who—

12 “(1) is not more than 18 years of age, and

13 “(2) is a dependent child, under the terms of
14 the plan or coverage, of the participant.

15 “(d) COST-SHARING PROHIBITED.—A group health
16 plan may not impose deductibles, copayments, coinsur-
17 ance, or other cost-sharing in relation to services provided
18 pursuant to the requirements of subsection (a).

19 “(e) CERTAIN COVERAGE RESTRICTIONS PROHIB-
20 ITED.—A group health plan may not—

21 “(1) deny to a participant or beneficiary eligi-
22 bility, or continued eligibility, to enroll or to renew
23 coverage under the terms of the plan solely for the
24 purpose of avoiding the requirements of this section,
25 or

1 “(2) penalize, or otherwise reduce or limit the
2 reimbursement of, an attending provider, or provide
3 incentives (monetary or otherwise) to an attending
4 provider, so as to induce the provider to provide care
5 to a beneficiary in a manner inconsistent with this
6 section.

7 “(f) ALLOWANCE FOR LEVEL OR TYPE OF PROVIDER
8 REIMBURSEMENT.—Nothing in this section shall be con-
9 strued to prevent a group health plan or a health insur-
10 ance issuer providing health insurance coverage in connec-
11 tion with a group health plan from negotiating the level
12 and type of reimbursement with a provider for care pro-
13 vided in accordance with this section.

14 “(g) NOTICE.—A group health plan shall provide no-
15 tice to each participant and beneficiary under such plan
16 regarding the coverage required by this section in accord-
17 ance with regulations which shall be promulgated by the
18 Secretary of Labor, in consultation with the Secretary and
19 the Secretary of Health and Human Services. Such notice
20 shall be in writing and prominently positioned in any lit-
21 erature or correspondence made available or distributed
22 to participants and beneficiaries by the plan or issuer on
23 an annual or other more frequent periodic basis.

24 “(h) RELATION TO STATE LAWS.—Nothing in this
25 section shall be construed to preempt or otherwise limit

1 any State law with respect to health insurance coverage
2 that requires more extensive coverage than is otherwise
3 required under this section.”.

4 (2) CONFORMING AMENDMENT.—The table of
5 sections for subchapter B of chapter 100 of such
6 Code is amended by inserting after the item relating
7 to section 9812 the following new item:

“Sec. 9813. Coverage of preventive care for children.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this Act shall apply with respect to plan years beginning
10 on or after January 1, 2010.

11 (e) INITIAL NOTICE.—Each group health plan and
12 health insurance issuer to which the notice requirements
13 of section 714(g) of the Employee Retirement Income Se-
14 curity Act of 1974, section 2707(g) of the Public Health
15 Service Act, or section 9813(g) of the Internal Revenue
16 Code of 1986 apply shall be deemed not in compliance
17 with such requirements with respect to the first plan year
18 beginning on or after January 1, 2010, unless, not later
19 than January 1, 2010, the plan or issuer includes the in-
20 formation described in such section in a notice which is
21 provided to each participant and beneficiary in writing.

22 **SEC. 3. COVERAGE OF PREVENTATIVE CARE FOR CHIL-**
23 **DREN UNDER HEALTH SAVINGS ACCOUNTS.**

24 (a) IN GENERAL.—Paragraph (2) of section 223(c)
25 of the Internal Revenue Code of 1986 (defining high de-

1 ductible health plan) is amended by adding at the end the
2 following new subparagraph:

3 “(E) SPECIAL RULE FOR PREVENTATIVE
4 CARE FOR CHILDREN.—

5 “(i) IN GENERAL.—A plan shall not
6 be treated as a high deductible health plan
7 unless such plan meets the requirements of
8 section 9813 (relating to coverage of pre-
9 ventative care for children).

10 “(ii) PLAN TREATED AS GROUP
11 HEALTH PLAN.—For purposes of clause
12 (i), the plan shall be treated as a group
13 health plan.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 2009.

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